

REMARKS

Preliminary Matters:

Applicant thanks the Examiner for acknowledging Applicant's claim to priority and receipt of the priority document. Further, it is noted with appreciation that the Examiner has accepted the drawings filed on April 18, 2006. Finally, Applicant thanks the Examiner for considering the Information Disclosure Statements filed on August 14, 2006, January 14, 2008, and February 18, 2010, respectively.

Disposition of Claims:

Claims 1-41 are all the claims pending in the application and have been rejected.

Claim Rejections Under 35 U.S.C. § 112:

Claims 1-41 are rejected under 35 U.S.C. § 112 (second paragraph) as being indefinite for failing to particularly point out and distinctly claim the subject invention. It is submitted that the claims, as amended above, overcome this rejection.

Claim Rejections Under 35 U.S.C. § 101:

Claims 1-38 are rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. Applicant has amended the claims to overcome this rejection. Specifically, apparatus claims 1-35 have been amended to recite "means plus function" limitations that is recognized by 35 U.S.C. § 112(sixth paragraph) as being proper apparatus limitations. Further, claims 36-38 have been amended such that they are directed to a "non-transitory computer-readable medium for storing a background program that causes a computer to operate as a background replacing apparatus...." Accordingly, it is requested that this rejection be withdrawn and the claims examined on the merits.

Conclusion:

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

/Brian W. Hannon/

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

Brian W. Hannon
Registration No. 32,778

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Date: June 30, 2010